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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 6, 2001

PETITION OF

COX VIRGINIA TELCOM, INC.

CASE NO. PUC990110

For approval of relocation  
of network interface device  
to minimum point of entry

ORDER ASSIGNING HEARING EXAMINER

Pursuant to the Order Granting Extension, issued by the State Corporation Commission ("Commission") on June 7, 2001, Cox Virginia Telcom, Inc. ("Cox") and Verizon Virginia Inc. ("Verizon Virginia") filed their respective Statement of Issues ("Statements") on July 6, 2001. On July 12, 2001, Cox filed a Motion For Leave To Amend Statement of Issues with attached Amended Statement of Issues ("Amended Statement"). We now grant leave to Cox and accept its Amended Statement.

The Commission, having considered the parties' Statements, the other pleadings of record, and the applicable law, now finds that the agreed "Disputed or Open Issues" contained in the Statements should be adopted, which are repeated herein below.<sup>1</sup>

(1) While the parties do not agree on whether Verizon Virginia is legally required

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<sup>1</sup> Both parties set out their agreed "Disputed or Open Issues" in identical language.

to remove the demarcation point to the MPOE for garden-style apartments at the request of the property owner, Verizon Virginia has agreed as a business matter that it will do so.

(2) Should the property owner and/or Cox be allowed to minimize its costs by (a) providing some equipment and/or (b) participating in the actual move of the wiring to a neutral cross connect box?

(3) Is the proper determination of Verizon Virginia's cost to the property owner for this conversion of wiring from network to inside wire based on the net book value (original cost less depreciation) for such facilities, including cable, terminals, closures, etc., as well as reasonable materials and labor costs incurred to make the rearrangement, including any extraordinary costs incurred to expedite requests, when appropriate?

(4) Should the property owner reimburse Verizon Virginia the entire amount of the cost determined by the approved methodology, or should Verizon Virginia absorb part or all of the costs of conversion?

Cox also submitted in its Statement of Issues a list of seven additional disputed or open issues that it contends are present but to which Verizon Virginia objects by saying they are new issues. To the extent that these additional issues are not included in the Petition filed by Cox on June 9, 1999, Cox advised that it plans to seek leave to file an amended Petition. The Commission finds that the identification of these additional disputed or open issues by Cox is untimely and will impede the

adjudication of the case. However, the additional issues raised by Cox may be of industry-wide concern and, more appropriately, could be addressed in a rulemaking proceeding consistent with our findings below.

In its July 6, 2001, filing, Cox also offered "Additional Information that Cox Considers Necessary to Refresh the Record" but to which Verizon objects as being neither necessary nor relevant. The Commission finds that the additional information Cox considers necessary to refresh the record is relevant to the remaining open issues agreed to by the parties.<sup>2</sup>

The Commission finds that a hearing examiner should be assigned to this case, pursuant to 5 VAC 5-20-120 A, to conduct all further proceedings in this matter on behalf of the Commission and to make a written report and recommendation thereon. The hearing examiner is also authorized, prior to hearing, to further delineate the remaining issues in this case consistent with the pleadings of record and the findings herein.

The hearing examiner is further directed to include in the written final report any recommendation for the Commission to initiate a rulemaking proceeding and the scope for such investigation.

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<sup>2</sup> The additional information proffered by Cox (Cox Statement of Issues, Para. I.B., pp.2-5) addresses, for the most part, applicable federal law of which we will take judicial notice.

Accordingly, IT IS ORDERED THAT:

(1) The agreed Statement submitted by the parties is hereby adopted.

(2) A hearing examiner is hereby assigned to this case, pursuant to 20 VAC 5-20-120 A. The hearing examiner may, in his or her sole discretion, further delineate the open issues in a pre-hearing ruling, consistent with the findings above.

(3) This matter is continued generally.